

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

ROBERT BOUNDS,

Petitioner,

vs.

No. CV 18-00911 RB/KRS

CORRECTIONS DEPARTMENT TO THE
PENITENTIARY OF NEW MEXICO,
et al.,

Respondents.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court *sua sponte* under Fed. R. Civ. P. 41(b). Petitioner Robert Bounds filed his Petition Under 28 U.S.C. § 2254 for a Writ of Habeas Corpus by a Person in State Custody on September 27, 2018. (Doc. 1). On that same date, Petitioner also filed a Prisoner's Motion and Affidavit for Leave to Proceed Pursuant to 28 U.S.C. § 1915. (Doc. 2). On October 9, 2018, the Court denied Petitioner's motion for leave to proceed *in forma pauperis* on the grounds that Petitioner's Motion disclosed more than sufficient assets to pay the \$5 filing fee for this proceeding. (Doc. 3). The Court ordered Petitioner Bounds to pay the \$5 filing fee for this habeas corpus proceeding within 30 days. (Doc. 3). More than 30 days has elapsed and Petitioner has not paid the \$5 fee. Therefore, the Court will require Petitioner to show cause within thirty (30) days of entry of this Order why this case should not be dismissed for failure to comply with the Court's Order.

This is a habeas corpus proceeding under 28 U.S.C. § 2254. The filing fee for a § 2254 proceeding is \$5. 28 U.S.C. § 1914. Petitioner did not pay the \$5 filing fee but, instead, filed his Prisoner's Motion and Affidavit for leave to proceed *in forma pauperis*. (Doc. 2). The Court

conducted the analysis of the financial information, including the inmate account statement, submitted by Petitioner under § 1915(b)(1) and determined that Petitioner has sufficient financial resources to prepay the \$5 filing fee for commencement of the action. (Doc. 3). On October 9, 2018, the Court denied Petitioner leave to proceed pursuant to § 1915 and ordered Petitioner to pay the full \$5.00 filing fee within 30 days. (Doc. 3).

Petitioner Bounds was denied leave to proceed *in forma pauperis* based on his financial ability to pay the \$5 fee. He was ordered to pay the \$5 filing fee within thirty (30) days. (Doc. 3). Petitioner did not pay the \$5 filing fee within the thirty-day time period and has never paid the \$5 fee. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n. 3 (10th Cir. 2003). Petitioner will therefore be ordered to show cause, within twenty-one (21) days of entry of this Order why the case should not be dismissed for failure to comply with the Court's October 9, 2018 Order and failure to prosecute this action.

IT IS ORDERED that Petitioner Robert Bounds show cause, within twenty-one (21) days of entry of this Order, why this case should not be dismissed for failure to comply with the Court's October 9, 2018 Order and failure to prosecute.


UNITED STATES MAGISTRATE JUDGE